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PATENT

Attorney Docket No: 28967/35255A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Ferrell et al.

Serial No.: 09/375,248

Filed: August 16, 1999

For: Screening and Therapy for Lymphatic Disorders Involving the FLT4 Receptor Tyrosine Kinase (VEGFR-3)

Group Art Unit: 1633

Examiner: E. Sorbello

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date:

January 4, 2001

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ELECTION WITH TRAVERSE IN RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, DC 20231

Sir:

In a restriction requirement dated December 4, 2000, in the above-identified matter, the Patent Office alleged pending claims 1-36 were directed to five distinct inventions, and required restriction. Reconsideration is requested in view of the following remarks.

REMARKS

I. Restriction

Citing 35 U.S.C. § 121, the Examiner alleged that claims 1-36 were drawn to five inventions:

I. Claims 1-11 and 14-21, drawn to a method of screening subjects developing a lymphatic disorder;

II. Claim 12, drawn to protein therapy using VEGF-C or VEGF-D;

III. Claim 12, drawn to gene therapy using VEGF-C or VEGF-D;

IV. Claims 13, 22-29, drawn to a polynucleotide encoding VEGFR-3, vectors, host cells, and methods of ex-vivo therapy; and

V. Claims 30-36, drawn to methods of identifying a modulator.

II. Election

The Applicants hereby elect Group I, which includes Claims 1-11 and 14-21, drawn to a method of screening subjects developing a lymphatic disorder, with traverse.

III. The Applicants traverse the restriction of claim Groups I and IV.

The screening methods of Group I involve assaying for the presence of variant polynucleotides or encoded polypeptides within patient samples. The variant polynucleotides are the subject matter of claims of Group IV. In addition, the mutant residues specifically described to be within the variant polypeptide sequence are recited in claims in both Group I and Group IV. Thus, it would not be a serious burden on the Examiner to do one search based on the claims in Group I and Group IV. If the Examiner's search indicates that the variant polynucleotides of Group IV are novel and non-obvious, screening for the polypeptides encoded by these polynucleotides should also be novel and non-obvious. Thus, examination of both groups will not involve serious burden. Applicants respectfully request that the restriction requirement, in respect to Groups I and IV, be withdrawn and these groups be examined simultaneously.

IV. The Applicants traverse the restriction of claim Groups II and III.

The methods of Group II and III involve administering a source of VEGFR-3 ligand to treat lymphedema. In addition, the therapeutic methods recited in claim 12 are related in terms of the intended result. Whether the source of the ligand administered is a polynucleotide encoding VEGF-C or VEGF-D, a cell transfected or transformed with the polynucleotide encoding VEGF-C or VEGF-D, or the VEGF-C or VEGF-D polypeptide itself, the therapeutical goal of activating VEGFR-3 is similar. Therefore, a search based on these groups will involve similar fields of art. Groups II and III consist of the same single claim. Therefore, would not create a serious burden on the Examiner. Applicants respectfully request that the restriction requirement, in respect to Groups II and III, be withdrawn and these groups be examined simultaneously.

V. The Applicants traverse the restriction of claim Groups IV and V.

The Group V methods of identifying modulators of intracellular VEGFR-3 signaling comprise contacting a cell expressing the VEGFR-3 polypeptide encoded by the polynucleotides of Group IV. Moreover, the cells expressing the VEGFR-3 polypeptide utilized by the methods of Group V are also subject matter of Group IV. If the polynucleotides and host cells of Group IV (product claims) are found novel and non-obvious under 35 U.S.C. §103(a), the Applicants may be entitled to rejoinder of claims to methods of

using that product. *See* 1184 OG 86, (1996). To facilitate efficient examination, the Applicants request that the claims of Group IV and Group V be examined simultaneously. The interrelatedness of the claims of Group IV and Group V suggests that there will be no serious burden involved. Applicants respectfully request that the restriction requirement, in respect to Groups IV and V, be withdrawn and these groups be examined simultaneously.

CONCLUSION

In light of the foregoing remarks, the Applicants request Group I (as elected herein) and Group IV be examined simultaneously. Applicants also request that Groups IV and V be consolidated due to the interrelatedness of the claims. Moreover, the Applicants request that Groups II and III be consolidated as methods of treating lymphedema by administering a ligand to activate VEGFR-3.

Respectfully submitted,

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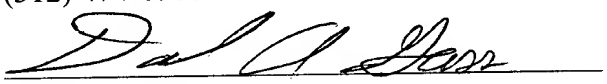
By: 

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